



S. 3406 – ADA Amendments Act of 2008

FLOOR SITUATION

S. 3406 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Tom Harkin (D-IA) on July 31, 2008. The Senate passed the bill by unanimous consent on September 11, 2008.

S. 3406 is expected to be considered on the floor of the House on September 16, 2008.

SUMMARY

S. 3406 amends the Americans with Disabilities Act of 1990 (ADA) to redefine the term "disability," including by clarifying the terms "major life activities" and "being regarded as having such an impairment."

This bill also outlines the definition of "disability." The legislation specifies that the term will be interpreted in favor of broad coverage of individuals under the Act, and states that an impairment that substantially limits one major life activity need not limit other major life activities in order to be a disability. In addition, S. 3406 clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active, and that the determination of whether an impairment substantially limits a major life activity will be made without regard to the effects of certain mitigating measures.

S. 3406 prohibits employment discrimination against a qualified individual on the basis of disability.

BACKGROUND

The ADA was originally signed into law by President George H.W. Bush in 1990 to provide qualified individuals with a disability with certain public services and accommodations, as well as to prohibit employment discrimination against these individuals. The Act stated that its purpose was to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."

The changes proposed by S. 3406 are in response to decisions by the Supreme Court interpreting the definition of disability, which affected an employer's consideration of mitigating measures when hiring.

The House passed a similar measure, H.R. 3195, on June 25, 2008, by a vote of 402-17. The Senate measure would not change the definition of "disability" under the statute, unlike the House version. Courts would have to construe the definition broadly during litigation of ADA discrimination cases.

COST

The Congressional Budget Office (CBO) has not produced a cost estimate for S. 3406 as of September 15, 2008.

STAFF CONTACT

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